

**To:** Symmes, Brian[Symmes.Brian@epa.gov]  
**Cc:** Betsy Natz[bnatz@kcma.org]; Winchester, Erik[Winchester.Erik@epa.gov]  
**From:** Mark Duvall  
**Sent:** Mon 3/6/2017 9:52:23 PM  
**Subject:** RE: Formaldehyde rule - non-complying lots issue  
Letter to EPA from KCMA re non-complying lots - 2-17-17.PDF

Mr. Symmes, as I indicated in my voice mail, the Kitchen Cabinet Manufacturers Association would like to meet with you and your staff about a key aspect of the formaldehyde in composite wood products rule. Please call me at 202-789-6090 to discuss when we could come in for a meeting.

Many thanks for your help on this matter, which is of considerable importance to KCMA and its members.

**Mark Duvall**

*Principal*

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**From:** Mark Duvall  
**Sent:** Monday, February 27, 2017 1:53 PM  
**To:** symmes.brian@epa.gov  
**Cc:** Betsy Natz; winchester.erik@epa.gov  
**Subject:** Formaldehyde rule - non-complying lots issue

On behalf of the Kitchen Cabinet Manufacturers Association (KCMA), I am forwarding to you a letter that KCMA sent to Acting Assistant Administrator Wendy Cleland-Hamnett regarding an important issue arising under the final rule on formaldehyde in composite wood products. She suggested that you may be best situated to address this issue. The letter describes the issue and requests a meeting with appropriate EPA personnel.

The issue has to do with the non-complying lots provision of the rule, 40 C.F.R. § 770.20(f), as applied to fabricators. Under that provision, a fabricator may receive a notification from a panel producer that panels the fabricator received were part of a lot that failed an emissions test. If the fabricator has already built finished products using the affected panels and shipped those finished goods to customers by the time the fabricator receives the notification, that provision arguably requires the fabricator to notify its customers that those finished products must be isolated; cannot be further distributed; and must either be recalled or treated and retested.

This non-complying lots provision appears to be designed with panels in mind. But the provision makes no sense when applied to finished goods, where it is no longer feasible to treat or test panels which have been incorporated into finished goods. The provision was not included in the proposed formaldehyde rule (which would have required panel producers to hold panels until test results were available). As a result, EPA does not appear to have thoroughly considered how this provision would work in practice.

KCMA and its members are very concerned that they may face a situation in which compliance is essentially impossible. KCMA requests a meeting with you and others as appropriate (such as Erik Winchester) to discuss how to interpret this provision. The attached letter makes some suggestions, but EPA may have additional ideas.

I will contact your office shortly to discuss timing for a meeting. Thank you for your attention to this important issue.

**Mark Duvall**

*Principal*

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